

## Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 PM-04 NSC-05 SP-02 SS-15 L-03 H-02

CIAE-00 INR-07 NSAE-00 OMB-01 /049 W  
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P 170516Z JUL 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC PRIORITY 7602

INFO SECDEF WASHDC PRIORITY

JCS WASHDC PRIORITY

CINCPAC PRIORITY

CINCPACAF PRIORITY

CINCPACREPPHIL PRIORITY

CINCPACFLT PRIORITY

CG 13 AF PRIORITY

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CINCPAC ALSO FOR POLAD

FROM USDEL 133

E. O. 11652: GDS

TAGS: MARR, RP

SUBJECT: PHILIPPINE BASE NEGOTIATIONS: ARTICLES III, IV, AND V

1. SUMMARY: US ARTICLES III, IV AND V AND PHIL ARTICLES III, IV AND V HAVE BEEN REDRAFTED IN AN ATTEMPT TO RECONCILE DIFFERENCES BETWEEN US AND PHIL DRAFTS WHILE ENSURING EFFECTIVE OPERATIONS BY US FORCES. REQUEST WASHINGTON CONCURRENCE/COMMENTS. END SUMMARY

2. FOLLOWING EARLIER DISCUSSIONS IN BAGUIO AND THE TOURS OF BASES ON 1 AND 2 JULY, US AND PHIL OPERATION OF BASES WORKING GROUP HAS BEEN CONSIDERING INFORMAL, NON-BINDING WORKING PAPERS AND COMMENTS CONCERNING US ARTICLES III, IV AND V (APRAS 4 AND 5), PLUS PHIL ARTICLES III, IV AND V (COMMAND, SECURITY AND ADMINISTRATION). WORKING GROUP IS ALL MILITARY, HEADED BY GEN ESPINO AND

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RADM SHELTON AND FOR THE MOST PART HAS BEEN THE FORUM FOR

SERIOUS ATTEMPT BY BOTH SIDES TO ACCOMODATE ASPECTS OF PHIL SOVEREIGNTY AND PROVIDE FOR EFFECTIVE US OPERATIONS. PHILS HAVE CONTINUOUSLY STRESSED IN PLENARY AND WORKING GROUPS THAT ORIGINAL US DRAFT REFERS TO PHIL COMMANDER IN ONLY THREE PLACES, NAMELY, PARA 1 AND 3 OF ARTICLE III AND PARA 2 OF ARTICLE IV (WHICH, THEY ARE QUICK TO POINT OUT, IMPOSES AN OBLIGATIONAL DUTY ON THE PHIL BASE COMMANDER). THEY HAVE ALSO OBSERVED THAT NONE OF THE REFERENCES INDICATES WHAT RESPONSIBILITY THE PHIL COMMANDER WILL HAVE. WORDS SUCH AS TOKENISM WERE USED.

3. INFORMAL WORKING PAPERS PREPARED BY PHIL SIDE HAVE CONSTANTLY SOUGHT TO PLACE PHIL COMMANDER IN A POSITION OF SUPERIORITY TO US FACILITIES COMMANDER, WHEREAS THOSE PREPARED BY US SIDE HAVE SOUGHT TO ACHIEVE MUTUALITY BETWEEN THE TWO INSOFAR AS THEY DO INTERRELATE. WHILE RECOGNIZING "CHANGES AND INCONVENIENCES" AS A PROBABILITY, WE BELIEVE US PAPERS HAVE ENSURED THAT PHIL COMMANDER IS EXCLUDED FROM ANY INTERFERING ROLE IN US OPERATIONS OTHER THAN TO BE REASONABLY INFORMED OF OUR ACTIVITIES SO AS TO ENSURE THAT THEY ARE CONSISTENT WITH PROVISIONS OF THE AGREEMENT AND TO ENABLE HIM TO ACT AS A BUFFER BETWEEN US FACILITIES COMMANDER AND GOP OFFICIALS.

4. TEXT OF WORKING PAPERS ON NEW SET OF ARTICLES III, IV AND V PROVIDED BY SEPTEL.

5. FOLLOWING IS REATIONAL FOR LANGUAGE AGREED AD REFERENDUM KEYED TO THESE ARTICLES.

(A) ARTICLE III (COMMAND): US CONCESSION IN PARA 1 RE FLAG CONFORMS TO PRESENT PRACTICE AT THE BASES WITH EXCEPTION IN SOME CASES OF PURELY US OUTDOOR CEREMONIES (MANY OR MOST OF WHICH ALSO FLY PHIL FLAG). WE BELIEVE THIS CONCESSION, WHICH IS VERY IMPORTANT TO THE PHILS, COSTS US LITTLE AND HAS BEEN OF CONFIDENTIAL

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THE BASE IS ALSO IMPORTANT TO THE PHILS (SOVEREIGNTY/ IMAGE) AND WE BELIEVE IS SATISFACTORILY DILUTED BY THE REMAINDER OF THE PARA. PARA 2 CONTAINS US FORMULATION OF PRINCIPLES WHICH HAVE EMERGED FROM PLENARY DISCUSSIONS. THOSE PRINCIPELS HAVE USUALLY BEEN STATES AS "FULL RESPECT FOR PHILIPPINE SOVEREIGNTY" "EFFECTIVE US OPERATIONS." WE INITIALLY RESISTED INSERTION OF "FULL" IN THE FORMULATION IN ORDER TO OBTAIN THE "ASSURANCE OF UNHAMPERED" WE WANTED. THE SECOND SENTENCE

OF THAT PARA IS CONSIDERED TO BE A MORE MUTUAL AND BENEFICIAL FORMULATION THAN THAT WHICH WAS CONTAINED IN ORIGINAL US DRAFT. PARA 4 IS USDEL FORMULATION WHICH WE BELIEVE GIVE THE USFC THE ABILITY TO ENSURE THAT POLICIES RE SECURITY, ADMINISTRATION, MAINTENANCE OF ORDER, AND RELATED MATERS ARE PROPERLY FORMULATED. WE HAVE INSISTED, AND WILL CONTINUE TO INSIST, ON OUR FORMULATION OF PARA 5 WHICH PRECLUDES UNILATERAL PBC ISSUANCE OF DIRECTIVES. PARA 6 IS OF GREAT IMPORTANCE TO PHIL MILITARY (REPORTEDLY INSERTED BY SND ENRILE) AND RUNS COUNTER TO VIEWS EXPRESSED BY VARIOUS PHIL CIVILIAN OFFICIALS IN OTHER WORKING GROUPS.

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INFO SECDEF WASHDC PRIORITY

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CINCPAC ALSO FOR POLAD

FROM USDEL 133

WE BELIEVE THAT WITH THE FIRST CLAUSE OF THIS PARA, WHICH IS DESIGNED TO ENABLE US STAFF OFFICERS TO DEAL DIRECTLY WITH SOME PHIL OFFICIALS (E.G., STAFF JUDGE ADVOCATE AND LOCAL FISCAL), WE WILL BE ABLE TO USE THE PBC AS A BUFFER BETWEEN THE USFC AND PHIL OFFICIALS.

IN DISCUSSIONS, PHILS HAVE MADE IT CLEAR THAT A ROLE OF THE PBC AS POINT OF CONTACT IN THE COMMUNIT RELATIONS/ CIVIC ACTION AREAS IS ESSENTIAL. THIS CAN BE VIEWED PRO AND CON BUT PERHAPS DOES OPEN THE DOOR TO BETTER APPLICATION OF JCS PUB ONE MILITARY CIVIC ACTION (AND COMMUNITY RELATIONS) THROUGH INDIGENOUS MILITARY FORCES, PROVIDED PROPER CONTROLS ARE MAINTAINED. THERE ARE SOME DRAWBACKS, BUT ON BALANCE, CONSIDER ADVANTAGES OUTWEIGHT THEM.

(B) ARTICLE IV (SECURITY): WE BELIEVE THAT PRARS 1 AND 2, WHICH MUST BE READ TOGETHR, PROTECT OUR INTERESTS WHILE FULFILLING COSMETIC REQUIREMENTS OF PHIL

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SOVEREIGNTY. PHILS HAVE STATED THAT PARA 1 EQUATES TO PERIMETER SECURITY AND HAVE ALSO INDICATED THEIR DESIRE TO ASSIST THE USFC IN SOME ASPECTS OF SECURITY WITHIN THE FACILITIE, PARTICULARLY IN THE HANDLING OF PHIL NATIONALS TO AVOID UNNECESSARY INCIDENTS AND UNFAVORABLE PUBLICITY SUCH AS HAS RESULTED MANY TIMES IN THE PAST. THEIR FORMULATION OF PARA 3 IS INCONSISTENT WITH THEIR STATED INTENTIONS AND DISCUSSIONS OF THE SUBJECT, BUT WE HAVE REASONABLY GOOD INDICATIONS THAT THEY WILL EVENTUALLY AGREE TO OUR FORMULATION OF PARA 3 PROVIDED THE IMAGE/SOVEREIGNTY ASPECTS CAN BE MOLLIFIED IN THE LANGUAGE. WE HAVE CONSTANTLY STRESSED THAT PARA 3 IS ESSENTIAL TO US AND THAT WE WILL NOT FALL OFF OUR POSITION. PARA 4, WHICH IN ITS ORIGINAL PHIL FORMULATION, CALLED FOR USFC TO ASSIST THE PBC, AS NOW AGREED (COOPERATION) IS CONSIDERED ACCEPTABLE, MAYBE EVEN HELPFUL. PARA 5, WHICH PHILS AGREE HAS NO APPLICATION TO MARS OR AFRTS, MERELY REFLECTS THT FACT THAT THE PHIL FOREIGN OFFICE STATES THAT IT WILL SHORTLY AGREE TO RECIPROCAL EXCHANGE OF NOTES RE HAM RADIO OPERATORS IN THE US AND PHILIPPINES. US SIDE HAS FLATLY REJECTED PHIL PARA 6 AND PHIL SIDE HAS NOT YET ARTICULATED THEIR RATIONALE. IT IS DOUBTFUL THAT THIS ISSUE WILL BE DISCUSSED FURTHER IN THE WORKING GROUP BUT IT MAY REAR ITS UGLY HEAD IN DISCUSSIONS BETWEEN THE PANEL CHAIRMEN OR IN THE PLENARY SESSIONS. PARA 2 OF ORIGINAL US DRAFT, ARTICLE IV, IS BEING DISCUSSED BY LEGAL WORKING GROUP IN THE CONTEXT OF DISCUSSION OF US ARTICLE XIII AND PHIL ARTICLE X.

(C) ARTICLE V (ADMINISTRATION): PARAS 1, 2 AND 3 OF US DRAFT ARTICLE V ARE BEING DISCUSSED WITHIN FACILITIES WORKING GROUP. PARA 1 OF REDRAFT, ALTHOUGH SOMEWHAT ONE-SIDED, WAS AGREED TO AS IT ESTABLISHES THAT USFC ADMINISTERS THE FACILITIES AND

IT ONLY REQUIRES COORDINATION WITH THE PBC RE IMPLEMENTATION OF THE AGREEMENT. PARA 2 DOES NOT COVER THE FUNCTIONS OF PHIL OFFICIALS AS IN THE ORIGINAL US DRAFT BUT WE BELIEVE THAT THEIR FUNCTIONS WILL BE ADEQUATELY SPELLED OUT ELSEWHERE IN THE AGREEMENT.

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MENT. THE PBC AND THE USFC HAVE BEEN SUBSTITUTED FOR THE MUTUAL DEFENSE BOARD IN THE INTEREST OF RESOLVING SUCH ISSUES AT THE LOWEST PRACTICABLE LEVEL, WHENEVER POSSIBLE, ALLOWING FOR EASIER TAILORING TO THE CIRCUMSTANCES AT THE INDIVIDUAL BASES. HOPEFULLY, THE PBC ALSO WILL BE INTERESTED IN KEEPING THE NUMBER OF PHIL OFFICIALS DOWN TO A REASONABLE NUMBER.

6. ACTON REQUESTED: SUBMITTED FOR CAREFUL CONSIDERATION, COMMENTS, CONCURRENCE, AND/OR GUIDANCE. RESPONSE NATURALLY REQUESTED ASAP BUT WOULD GREATLY APPRECIATE PRELIMINARY VIEWS RESPONSE NLT 0700 20 JULY IN ORDER TO HAVE SOME GUIDANCE FOR FIRST PLENARY AFTER PRESENT PLENARY RECESS.

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## Message Attributes

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